IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

PRINTERS LOFTS CONDOMINIUM ASSOCIATION,

Plaintiff,

v.

PHILADELPHIA INDEMNITY INSURANCE COMPANY,

Serve: Registered Agent
CT Corporation System
120 South Central Ave.
Clayton, MO 63105

(ST. LOUIS COUNTY)

Defendant.

Cause No.

JURY TRIAL DEMANDED

PETITION

COMES NOW Plaintiff Printers Lofts Condominium Association and for its Petition against Defendant Philadelphia Indemnity Insurance Company alleges as follows:

NATURE OF THE CASE

1. This is an action brought by Plaintiff Printers Lofts Condominium Association ("Plaintiff Printers Lofts") against Defendant Philadelphia Indemnity Insurance Company ("Defendant Philadelphia") for breach of contract of insurance and declaratory judgment.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff Printers Lofts is a non-profit Missouri corporation with its principal office located at 1611 and 1627 Locust Street, St. Louis, Missouri 63103.

3. Defendant Philadelphia is an insurance company organized under the laws of the State of Pennsylvania, with its principal place of business in Bala Cynwyd, Pennsylvania. At all

times material herein, Defendant Philadelphia was a corporation duly registered and authorized to conduct business and issue policies of insurance in the State of Missouri.

4. This Court has subject matter jurisdiction pursuant R.S. Mo. § 478.070 and under the Missouri Declaratory Judgment Act, R.S. Mo. § 527.010, among other authority, whereby circuit courts of Missouri are authorized to declare rights, status, and other legal relations.

5. This Court has personal jurisdiction over Plaintiff Printers Lofts' action because Defendant Philadelphia is a foreign corporation with registered agent and office located in Missouri and this action arose out of a contract of insurance made within the State of Missouri as authorized by the Missouri Department of Insurance.

6. Venue is proper in this Court pursuant to § 508.010 RSMo., among other authority, because Defendant Philadelphia issued a policy of insurance in the City of St. Louis that is the subject of this action, Plaintiff Printers Lofts is a resident of the City of St. Louis, and Plaintiff Printers Lofts was first injured in the City of St. Louis.

FACTS COMMON TO ALL COUNTS

7. Plaintiff Printers Lofts was insured under a policy of insurance ("Policy") issued by Defendant Philadelphia from April 22, 2012 to April 22, 2013, policy number PHPK856790, which included a Property Coverage Form that provides for coverage for damages to the roofs of Printers Lofts buildings at 1611 and 1627 Locust Street, St. Louis, Missouri 63103 ("1611 and 1627 Locust") resulting from hail.

8. In consideration for same, Plaintiff Printers Lofts paid a premium of $28,310.

9. On April 28, 2012, a hail storm caused extensive physical damage to the roofs of Printers Lofts buildings at 1611 and 1627 Locust.

10. A claim for resulting hail damage was timely made to Defendant Philadelphia in full compliance with all pertinent terms of the Policy; Plaintiff Printers Lofts performed all conditions precedent of the Policy.

11. Plaintiff Printers Lofts' claim was wrongfully denied by Defendant Philadelphia based upon an assertion there was no physical evidence of hail damage to the roofs of 1611 and 1627 Locust Street, St. Louis, Missouri 63103, despite extensive evidence documenting same.

COUNT I - BREACH OF CONTRACT

12. The Policy is a valid and enforceable contract.

13. Pursuant the terms of the Policy, damage caused by hail to the roofs of 1611 and 1627 Locust were to be covered losses. (**Exhibit A**, Property Coverage Form, PI-ULT-007 11.98).

14. Defendant Philadelphia acknowledges that hail damage is a covered loss under the policy within the policy period, to include April 28, 2012, pursuant which Defendant Philadelphia had a duty to indemnify Plaintiff Printers Lofts for such covered loss. Defendant Philadelphia acknowledges the Policy affords coverage for such loss occasioned by hail.

15. Defendant Philadelphia, individually and through their agents, failed to properly investigate the claim, failed to observe ample evidence of hail damage, and wrongly asserted there was no hail damage to the roofs of 1611 and 1627 Locust.

16. Defendant Philadelphia breached its obligation to Plaintiff Printers Lofts under the Policy in failing to indemnify Plaintiff Printers Lofts for the covered loss.

17. Defendant Philadelphia is liable to Plaintiff Printers Lofts to indemnify it for the costs of replacement of the roofs of 1611 and 1627 Locust.

18. Defendant Philadelphia is liable to Plaintiff Printers Lofts for costs incurred since April 28, 2012 in relation to maintenance of the roofs of 1611 and 1627 Locust Street.

WHEREFORE, Plaintiff Printers Lofts prays this Court enter judgment:

A. Declaring coverage under the Policy for the loss occasioned by hail damage;

B. Finding that Defendant Philadelphia must fully indemnify Plaintiff Printers Lofts for the covered loss, specifically all costs associated with replacement of the roofs of 1611 and 1627 Locust Street, St. Louis, Missouri 63103;

C. Awarding Plaintiff Printers Lofts costs incurred since April 28, 2012 in relation to maintenance of the roofs of 1611 and 1627 Locust;

D. Awarding attorneys' fees and costs; and

E. Ordering such other and further relief as the Court deems just and proper under the circumstances.

COUNT II – VEXATIOUS REFUSAL TO PAY UNDER § 375.420 RSMO.

19. Plaintiff Printers Lofts re-alleges the preceding paragraphs of its Petition.

20. More than thirty (30) days has elapsed since Plaintiff Printers Lofts made demand upon Defendant Philadelphia that it make payment under the terms and provisions of its Policy, and in spite of said demand having been made, Defendant Philadelphia continues to fail and refuse to pay the claim without reasonable cause or excuse.

WHEREFORE, Plaintiff Printers Lofts prays this Court enter judgment in its favor:

A. For the amount due in indemnity for the covered loss, plus interest;

B. Additional damages in the amount of twenty percent of the first fifteen hundred dollars of the loss and ten percent of the amount of the loss in excess of fifteen hundred dollars; and

C. Reasonable attorneys' fees and costs.

COUNT III - DECLARATORY JUDGMENT

21. Plaintiff Printers Lofts re-alleges the preceding paragraphs of its Petition.

22. A justiciable controversy exists between Plaintiff Printers Lofts and Defendant Philadelphia that is ripe for determination as to whether the claim is covered under the Policy, and whether Defendant Philadelphia breached its obligations under the Policy.

23. Plaintiff Printers Lofts does not have an adequate remedy at law, in that Plaintiff Printers Lofts roofs at 1611 and 1627 Locust continue to suffer from the hail damage and are in need of full replacement due thereto.

24. Defendant Philadelphia has a legal and fiduciary duty to indemnify Plaintiff for the covered loss.

WHEREFORE, Plaintiff Printers Lofts prays this Court enter judgment in its favor:

A. Declaring coverage under the Policy for the loss occasioned by hail damage;

B. Adjudging that Defendant Philadelphia must fully indemnify Plaintiff Printers Lofts for the covered loss, specifically all costs associated with replacement of the roofs of 1611 and 1627 Locust;

C. Award attorneys' fees and costs; and

D. Order such other and further relief as the Court deems just and proper under the circumstances.

JURY TRIAL DEMANDED

Respectfully submitted,

ONDER, SHELTON, O'LEARY
& PETERSON, LLC

By: /s/ *W. Wylie Blair*

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Attorneys for Plaintiff

Electronically Filed - City of St. Louis - May 22, 2017 - 03:06 PM

Refund 5/26 SB

IN THE 22ND JUDICIAL CIRCUIT COURT, CITY OF ST LOUIS, MISSOURI

Judge or Division: MICHAEL KELLAN MULLEN	Case Number: 1722-CC01148	Special Process Server 1
Plaintiff/Petitioner: PRINTERS LOFTS CONDOMINIUM ASSOCIATION vs.	Plaintiff's/Petitioner's Attorney/Address WILLIAM BLAIR 110 East Lockwood, 2nd Floor ST LOUIS, MO 63119 58196	Special Process Server 2 Special Process Server 3
Defendant/Respondent: PHILADELPHIA INDEMNITY INSURANCE COMPANY	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	(Date File Stamp)
Nature of Suit: CC Breach of Contract		

Summons in Civil Case

The State of Missouri to: PHILADELPHIA INDEMNITY INSURANCE COMPANY
Alias:

CT CORPORATION SYSTEM
120 SOUTH CENTRAL AVENUE
CLAYTON, MO 63105

30 CTCOR

ST LOUIS COUNTY SHERIFF

COURT SEAL OF CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

April 26, 2017 — Date

Thomas Kloeppinger — Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with ______ a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to ______ (name) ______ (title).
- ☑ other CT CORP. LCW – B. LOVE

Served at St. Louis County (address)

in ______ (County/City of St. Louis), MO, on MAY 10 2017 (date) at 9 A (time).

L. DSILVESTER — Printed Name of Sheriff or Server

Signature of Sheriff or Server

St. Louis County Sheriff's Office

2017 MAY -5 PM 3:39 RECEIVED

Must be sworn before a notary public if not served by an authorized officer:

(Seal) Subscribed and sworn to before me on ______ (date).

My commission expires: ______ Date ______ Notary Public

Sheriff's Fees

Summons	$
Non Est	$
Sheriff's Deputy Salary Supplemental Surcharge	$ 10.00
Mileage	$ ___ (___ miles @ $ ___ per mile)
Total	$

MAY - 5 2017

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

GP 5/8/17

17-SMCC-3497